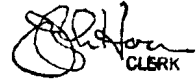


FILE

JUL 20 2009


CLERK

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA
SOUTHERN DIVISION

In the Matter of

CIV09- 4107

One Parcel of Property located at
1908 River Bluff Dr., Brandon,
Minnehaha County, South Dakota,
with all appurtenances, fixtures,
attachments, and improvements thereon,

**MOTION FOR WRIT
OF ENTRY**

Personal Property Described as:
One LG 50" plasma TV; One Bulova
G0953 grandfather clock; one game table;
one Providence 8' pool table with cover and
floor rack; appliances including one LG
French door refrigerator; one Bosch double
oven; one Bosch dishwasher, one GE
microwave, one Bosch 5-burner gas cook-
top stove; and fixtures, including but not
limited to surround sound, including
speakers and keyboard; draperies, fabric,
lining, rods, window treatments, blinds;
and alarm system;

Wells Fargo Bank Account
#XXXXXX3385, in the name of
Christopher J. Reisch;

Great Western Bank Account
#XXXXXX4070, in the name of
Christopher J. Reisch;

Great Western Bank Account
#XXXXXX7555, in the name of
Mike J. Reisch and/or Luverne Sports;

2007 Gold Yukon Denali, VIN
1GKFK63887J290988, bearing
SD License 1WC 518;

Certified Mail #70081300 0001 9567 5859
containing \$420 in cash;

Certified Mail #7008 2810 0001 7199 6571
containing \$890 in cash;

Certified Mail #7008 2810 0001 7199 6564
containing \$410 in cash;

Certified Mail #7008 1300 0001 9567 5880
containing \$550 in cash;

Certified Mail #7008 1300 0001 9567 5873
containing \$295 in cash;

Certified Mail #7008 1300 001 9567 6115
containing \$800 in cash;

Certified Mail #7008 2810 0001 7199 6540
containing \$1000 in cash;

Certified Mail #7007 1490 0001 6468 7473
containing \$400 in cash;

Certified Mail #7007 1490 0001 6468 7480
containing \$1000 in cash;

Certified Mail #7008 2810 0001 7199 6557
containing \$900 in cash;

Certified Mail #7008 1300 0001 9567 5866
containing \$2200 in cash;

Certified Mail #7008 2810 0001 7199 6533
containing \$2000 in cash;

Certified Mail #7008 1300 0001 9567 6122
containing \$440 in cash;

Certified Mail #7008 2810 0001 7199 6526
containing \$381 in cash;

Certified Mail #7008 2810 0001 7199 6588
containing \$300 in cash;

Express Mail #EB825346398US
containing a total of \$10,000 in cash;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Redfield, SD 57469
containing a \$515 check;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Sioux Falls, SD 57110
containing a \$720 check;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Sioux Falls, SD 57106
containing \$58 in cash;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Okoboji, IA 51355
containing \$270 in cash;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Hartington, NE 68739
containing \$120 in cash;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Pierre, SD 57501
containing \$23 in cash;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Brookings, SD 57006
containing \$190 in cash;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Hartington, NE 68739
containing \$90 in cash;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Hartington, NE 68739
containing \$50 in cash;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Luverne, MN 56156
containing \$3 in cash;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Edgerton, MN
containing \$400 in cash;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Luverne, MN 56156
containing \$200 in cash;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Mason City, IA 50401
containing \$45 in cash;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Waterloo, IA 50703
containing a \$965 check;

First Class Mail from 1908 River Bluff Dr.
Brandon, SD 57005 to Chandler, AZ 85248
containing a \$4,325 check;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Yankton, SD 57078
containing a \$545 check;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Redfield, SD 57469
containing a \$955 check and a
\$1,430 check;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Sioux Falls, SD 57108
containing \$55 in cash;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Pierre, SD 57501
containing \$50 in cash;

First Class Mail from 1908 River Bluff Dr.,

Brandon, SD 57005 to Rock Rapids, IA 51246
containing \$48 in cash;

First Class Mail from 1908 River Bluff Dr.,
Brandon, SD 57005 to Rock Rapids, IA 51246
containing \$15 in cash;

\$368,109 in cash;

A \$530 U.S. Postal money order;

Express Mail #EH472668285US
containing \$12,360 in cash;

Priority Mail #0308 0730 0000 1723 0554
containing \$2,300 in cash;

Certified Mail #7008 0150 0002 6216 8543
containing \$950 in cash;

Certified Mail #7008 0500 0000 9969 4148
containing \$1,610 in cash;

First Class Mail from Sioux Falls, SD 57106
to Mike Reisch,
containing \$55 in cash;

First Class Mail from Fargo, ND 58102
to LSS
containing a \$115 check;

First Class Mail from Aberdeen, SD 57401
to Mike Reisch,
containing \$115 in cash;

First Class Mail from Benson, MN 56215
to LSS
containing \$5 in cash;

First Class Mail from Luverne, MN 56156
to L.S.S.,
containing \$70 in cash;

First Class Mail from Fargo, ND 58103
to LSS
containing a total of \$55 in checks;

First Class Mail from Elyston, MN 56028
to Mike or Chris Reisch
containing a \$100 check;

First Class Mail from Sioux Falls, SD 57107
to Mike Reisch,
containing a \$460 check;

First Class Mail from Fort Pierre, SD 57532
to 1908 River Bluff Dr., Brandon, SD 57005,
containing \$160 in cash;

First Class Mail from Hendrick, MN 56134
to L.S.S.
containing \$360 in cash;

3 one-ounce Gold Eagle coins;

1 one-ounce gold maple leaf coin;

1 #5 1901 gold piece;

1 1/10th of an ounce Gold Eagle coin.

Defendants.

The United States of America, by the United States Attorney for the
District of South Dakota, moves the Court for the issuance of a Writ of Entry,
as authorized by 18 U.S.C. §§ 983(j) and 985(b)(1), for the purpose of

maintaining and preserving the availability of the property for civil forfeiture described as:

Lot 8 in Block 1 of the Bluff's Addition, an Addition to the City of Brandon, Minnehaha County, South Dakota, according to the recorded plat thereof,

a/k/a 1908 River Bluff Dr., Brandon, Minnehaha County, South Dakota, along with all appurtenances, fixtures and improvements thereon, as well as the following personal property which based upon information and belief the United States believes is maintained within the aforementioned residence:

One LG 50" plasma TV; One Bulova G0953 grandfather clock; one game table; one Providence 8' pool table with cover and floor rack; appliances including one LG French door refrigerator; one Bosch double oven; one Bosch dishwasher, one GE microwave, one Bosch 5-burner gas cook-top stove; and fixtures, including but not limited to surround sound, including speakers and keyboard; draperies, fabric, lining, rods, window treatments, blinds; and alarm system.

Pursuant to 19 U.S.C. § 1606, the United States also seeks permission for an appraisal of said defendant property.

As alleged in the Verified Complaint for Forfeiture in Rem, which was filed in this District on July 20, 2009, the defendant property is subject to forfeiture for violation of federal laws.

The Civil Asset Forfeiture Reform Act of 2000, Pub. L. No. 106-185, 114 Stat. 202 ("CAFRA") enacted a new provision, codified at 18 U.S.C. § 985, regarding forfeitures of real property. That statute provides that forfeitures of real property are initiated by filing a complaint, posting notice on the property

and serving the property owner with a copy of the complaint.¹ No other action needs to be taken to give the court jurisdiction over the property. 18 U.S.C. § 985(c)(3).

Subsection 985(b)(2) explicitly allows for a writ of entry to be executed “for the purpose of conducting an inspection and inventory of the property” and further provides that execution of such a writ of entry “shall not be considered a seizure.” See also 19 U.S.C. § 1606 (providing that “The appropriate customs officer shall determine the domestic value, at the time and place of appraisal, of any vessel, vehicle, aircraft, merchandise, or baggage seized under the customs laws.”).

The need to inspect the premises is especially important where the property is only constructively seized, as is the case here. This inspection should, among other things, enable the United States to appraise the condition and value of the property, and permit the United States to take an inventory of the property, including the use of still and video photography of the premises. Moreover, as provided in 18 U.S.C. § 983(j)(1), the court has broad discretion to enter protective orders and to “take any other action” in order to “secure,

¹ In essence, the statute codifies the holding of United States v. James Daniel Good, 510 U.S. 43, 114 S.Ct. 492, 126 L.Ed.2d 490 (1993). There, the Supreme Court held that absent exigent circumstances, due process prohibits the Government in a civil forfeiture case from seizing real property without first affording the owner notice and an opportunity to be heard.

maintain or preserve the availability of property subject to civil forfeiture.”

Without such an inspection at the outset of the case, it would be difficult to “secure, maintain or preserve the availability of property” that is subject to forfeiture because there would not be an accurate record documenting the condition of the property.

Finally, the provisions of 18 U.S.C. § 2232(b), also enacted as part of CAFRA, make it a crime for anyone to take any action that would impair the Court’s in rem jurisdiction over property that is subject to forfeiture or to knowingly damage, dispose of, waste, or transfer said property. Thus, the writ of entry should also provide that any interference with its execution shall be deemed a violation of a Court order, punishable as a contempt, as a violation of 18 U.S.C. § 2232.

CONCLUSION

For all the above reasons, the United States requests that the Court issue a writ of entry to permit the inspection of the above named defendant real property.

Dated: July 19, 2009.

MARTY J. JACKLEY
United States Attorney


/s/ Stephanie C. Bengford

STEPHANIE C. BENGFORD
Assistant United States Attorney
P. O. Box 2638
Sioux Falls, SD 57101-2638
(605) 330-4401
FAX (605) 330-4402
stephanie.bengford@usdoj.gov